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# APERS PRINTED BY ORDER OF THE LEGISLATIVE COUNCIL.

## DEATH AND DEVALUATION OF MR. SHERIFF MACQUOID'S PATRONS WITH A MESSAGE FROM THE GOVERNOR.

No. 1.  
Despatch from Sir George Gipps to Lord John Russell.

My Lord,—I am sorry to have to report to your Lordship the death of Mr. Thomas Macquoid, Sheriff of this Colony, and I regret still more to add, that he died by his own hand, having shot himself through the head with a pistol, on the morning of the 12th instant. The verdict of the jury, assembled by the Coroner, to hold an inquest on his body, was, that he had destroyed himself in a fit of temporary insanity.

As pecuniary embarrassments were known to have led Mr. Macquoid to the commission of this rash act, I lost no time in appointing two officers to report on the state of his accounts with the Government. A copy of the Report made to me by them, is enclosed herewith, and in your Lordship will perceive that the amount due by him, at the time of his death, to the Government, was £591 7s. 4d.; but as proper measures have been taken for the recovery of this sum, no loss whatever will be occasioned by his death to the Government.

I am informed, however, I regret to say, that Mr. Macquoid had in his hands, at the time of his death, monies to the amount of about £2,400, belonging to suitors in the Court, that is to say, monies levied in pursuance of writs directed to him by the Judges, and that these suitors will come in, I believe, only as concurrent creditors, it is expected that they may be losers, though to what amount cannot yet be ascertained.

By the Rules of Court, established for the regulation of his office, the Sheriff was not required to pay money into Court until the return day named in the writ, and as the levies were frequently made by him before the return day, it followed that he frequently had (as at the time of his death) monies belonging to suitors in his hands; with these matters, however, the Executive Government had no concern.

Mr. Macquoid was appointed Sheriff of New South Wales in 1828, and his appointment notified to the Governor of the Colony by a Despatch from Sir George Murray, of the 27th of that month, No. 11.

The duties of the office of Sheriff were, however, defined in a previous Despatch, from Lord Bathurst, the 22nd January, 1824, the Sheriff was required to give security in the Supreme Court, to the amount of £1000; but no such security appears ever to have been entered into, and the only record that can be traced on the subject, is a letter from the Colonial Secretary (Mr. Macleay), dated the 31st April, 1829, to Mr. Macquoid, informing him that it was required of him.

The sudden and unexpected death of Mr. Macquoid rendered it, of course, necessary for me to appoint some person (subject to Her Majesty's approval) to the office of Sheriff; I consequently offered the situation successively to Mr. Charles Windley and Mr. John Ryan Brown, Police Magistrates of Sydney; but each of these gentlemen declined it on the ground of the extreme responsibility and risk of the office.

I then applied to the Chief Justice to recommend to me a proper person, and on his recommendation, I have appointed to act as Sheriff, until Her Majesty's pleasure shall be known, Mr. William Hustler, a Barrister, who has, for the last two years, practised in the Supreme Court, though, of course, he cannot do so whilst acting as Sheriff.

The salary of Mr. Macquoid was £1000 a year, without fees, or other allowances, except 40s. per diem for travelling expenses when absent from Sydney on duty. This salary Mr. Hustler will receive; and should it not be in Your Lordship's power to confirm him in the office, I venture to hope that any person appointed to supercede him, may be allowed pay only from the day on which he shall be sworn in, and I beg leave to refer to the concluding paragraph of Sir George Murray's Despatch, of the 27th June, 1828, to show that such was the case when Mr. Macquoid was appointed.

Mr. Hustler has given security, with one sufficient surety, for the performance of his duty, in the sum of £1000, as directed in Lord Bathurst's Despatch above referred to.

In conclusion, I beg to state, that since my attention has, by the death of Mr. Macquoid, been drawn to the office of Sheriff, I am strongly of opinion that either an Act of Council is required to regulate the office, or some other mode of Court; and that I propose to communicate with their Honors the Judges on the subject.

I have, &c.,  
(Signed) GEORGE GIPPS,  
To Lord John Russell, &c., &c., &c.

[Enclosure to the foregoing Despatch.]

Report of a Board appointed, by directions conveyed in the letter of the Honorable the Colonial Secretary, dated 12th October, 1841, to examine into, and report on the state of the accounts of the late Thomas Macquoid, Esq., Sheriff.

The Board, having attended at the Sheriff's Office, called upon by the late Sheriff, Mr. C. Frost, to produce to them an account of all fees payable to him in the direction of the late Mr. Macquoid, from the 1st September to 12th October, the date of his death,—it having appeared that the fees collected up to the 31st August last immediately preceding, had already been paid into the Colonial Treasury.

Mr. Frost accordingly furnished us with a statement of fees collected within the period, including postage and stationery for writs, from 26th July, amounting to six hundred and twelve pounds, nineteen shillings, which, he informed us, had been carefully made up from the cash book, of fees received, in the usual manner, and which he considered to be the correct amount of fees payable into the Colonial Treasury by Mr. Macquoid, at the time of his death. The correctness of this statement we have no reason to doubt.

On enquiry into the state of the account of monies advanced him for defraying the contingent expenses of his Department, we found that balance in his hands remaining unadjusted on the Treasurer's books, on 30th September

last, was six hundred and fifty pounds, four pence.

Out of this sum, from vouchers and accounts produced to us, we found that payments to the amount of three hundred and eleven pounds, twelve shillings, have been made, under his direction, for expenses of an ordinary nature, which, when brought forward and placed in warrant, as it is intended should forthwith be done, will reduce the balance on this account, to three hundred and thirty-eight pounds, eight shillings, and four pence.

These being the only accounts of the late Mr. Macquoid with the Government, we consider his debt to the same, at the time of his death, to have been:—

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For fees and collections not paid into the Treasury, six hundred and five pounds, nineteen shillings.

338 8 4 Balance in his hands of sums advanced to liquidate contingent expenses, three hundred and thirty-eight pounds, eight shillings, and four pence.

Making in all the sum of nine hundred and fifty-one pounds, seven shillings, and four pence.

£591 7 4 We consider it unnecessary to enquire into the amount of Fees due to the Sheriff's Office by Attorneys of the Court, as this would have required a considerable time, and as these can be equally readily recovered by Mr. Macquoid's successor in office.

(Signed) WM. LITHGOW,  
WM. MACPHERSON.

No. 2.  
Letter from the Colonial Secretary, to the Civil Crown Solicitor.

Colonial Secretary's Office, Sydney, 14th October, 1841.  
Sir,—I have the honor herewith, to transmit to you a letter from the Auditor-General, dated 13th instant, enclosing the Report of the Board appointed to examine the accounts of the late Thomas Macquoid, Esquire, Sheriff, with the Government; and I am directed by His Excellency the Governor to request, that you will be so good as to forward a copy of the Report to the Auditor-General, and adopt such measures as he may direct, for the recovery of the money therein stated to be due, namely, nine hundred and fifty-one pounds, seven shillings, and four pence.

I am further directed to request, that you will ascertain and report to me, as soon as possible, what security has been given by Mr. Macquoid in the Supreme Court.

I have, &c.,  
(Signed) E. DEAS THOMSON,  
The Civil Crown Solicitor.

No. 3.  
Letter from the Civil Crown Solicitor, to the Colonial Secretary.

Civil Crown Solicitor's Office, Sydney, 9th February, 1842.  
Sir,—With reference to yours of the 11th October, I have the honor to inform you, that the necessary proceedings were taken to recover the amount due to the Government by the late Sheriff, which amount was recovered and paid over to the Colonial Treasurer by the present Sheriff.

I have the honor to be, &c.,  
(Signed) GEORGE COOPER TURNER,  
Civil Crown Solicitor.

The Honorable the Colonial Secretary, &c., &c., &c.

No. 4. is a memorial from certain attorneys and agents of suitors, praying that the sum of £2350 received by Mr. Macquoid in his official capacity, may be paid by the Government.

No. 5. Letter from the Colonial Secretary, in reply to the foregoing.

Colonial Secretary's Office, Sydney, 11th December, 1841.

Gentlemen,—I am directed by His Excellency the Governor, to acknowledge the receipt, on the 9th inst., of your Memorial, the subject of your claim as agents for suitors in the Supreme Court, and enrolled as creditors in the Estate of the late Sheriff, Mr. Macquoid; and in reply, to repeat to you what His Excellency stated personally to Mr. Macquoid of the Bank of Australia, and Mr. Rogers, of the firm of Carr, Rogers, & Co., the gentlemen who presented it to him, namely, that the Government, having had no control over the late Sheriff, in the matters to which the Memorial relates, in no way whatever responsible for his debts; and that Sir George Gipps can do nothing that would seem to take such a responsibility on the Government.

I have the honor, &c.,  
(Signed) E. DEAS THOMSON.

The Attorneys and Solicitors acting as agents for suitors in the Supreme Court, and enrolled as creditors in the estate of the late Sheriff.

No. 6. Is a petition from certain attorneys, presented to the Legislative Council, arguing that the Government is responsible for the acts of the Sheriff, and praying compensation from the Colonial funds.

No. 7. Letter from the Colonial Secretary, to the Chief Justice.

Colonial Secretary's Office, Sydney, July 9, 1842.

Sir,—I am directed by His Excellency the Governor to transmit to you the accompanying copy of a Petition, received yesterday, from the sufferers by the default of the late Sheriff, Mr. Thomas Macquoid; and referred to the Acts of Parliament, named the margin, one passed in the case of the Earl of Maclefeld, the other in that of Mr. Ricketts, an enquiry in each of these cases, under the authority of the Judge or Judges of the Court in which the default had occurred was instituted into the validity of the claims preferred by the sufferers, before any measure was recommended to Parliament by the Executive Government.

His Excellency desires me to request of Your Honor to favour him by stating, whether any similar enquiry has been made in the case of Mr. Macquoid's default, under the authority of the Judges of the Supreme Court; and if not, to request that Your Honor will, in conjunction with your learned Brethren, take into consideration the propriety of instituting an enquiry by which the real amount of the claims against Mr. Macquoid, in his capacity of Sheriff, may be ascertained; and also, whether some portions of the claims may not be attributed to the want of due diligence on the part of the claimants. I have, &c.,  
(Signed) E. DEAS THOMSON,  
His Honor the Chief Justice.

No. 8. Letter from the Judges, to Governor Sir George Gipps.

Supreme Court House, Sydney, August 15, 1842.

Sir,—We have the honor to acknowledge the receipt of your Excellency's letter, of 9th July 1842, addressed by your Excellency's directions to the Chief Justice, calling the attention of the Judges to a list appended thereto, of claims presented to Your Excellency against the Estate of the late Sheriff of the Colony, Mr. Macquoid, for sums of money received by him as Sheriff, and due at the time of his death to certain suitors in the Supreme Court, and requesting us to state, whether any enquiry, similar to the enquiries in the cases of the Earl of Maclefeld and Mr. Ricketts, had been made in the case of Mr. Macquoid, under the authority of the Judges of the Supreme Court; and if not, requesting us to take into consideration the propriety of instituting such enquiry, by which the real amount of the claims against Mr. Macquoid, in his capacity of Sheriff, might be ascertained; and also, whether some portions of the claims may not be attributable to the want of due diligence on the part of the claimants.

We have the honor to be, &c.,  
(Signed) W. HUSTLER,  
W. CARTER,  
W. MACPHERSON.

Their Honors the Judges.

(The Schedule referred to in the foregoing Report shows the total amount to have been £2,792 10s. 3d.)

No. 9. is a letter from the Colonial Secretary, requiring the verification of the above accounts, and also the amount due by attorneys for fees.

Letter from the Colonial Secretary, to the Attorney-General and Civil Crown Solicitor.

Sydney, 20th October, 1842.

Sir,—I am directed by His Excellency the Governor, to transmit to you a copy of a letter, written by me to His Honor the Chief Justice, on the 9th July last, respecting the affairs of the late Sheriff; and a copy of the answer thereto, by the Judges, at the time of his death, together with a copy of the Report which was enclosed in the letter from the Commissioners who were appointed by the Judges to examine into the accounts of that Officer.

The sums reported by the Commissioners to have been owing by the late Sheriff, at the time of his death, to persons in the Court, amount to two thousand seven hundred and ninety-two pounds, four shillings, and seven pence; but amongst the sums so returned, the Governor finds that by far the greater part had been owing for a considerable time, and that, since the Return Day, on which the money was levied, the money ought to have been paid;—and it appears to His Excellency, that if such monies were not paid in proper time, the Attorneys have suffered only in consequence of their own negligence, in not demanding the money.

It will be a subject for the consideration and advice of the Law Officers of the Crown, how that property may be made available towards satisfying the demands against the late Sheriff, and the property of the deceased late Sheriff, which he had in his hands, but in the events which have happened, it will probably be considered right to apply to the Legislative Authority, to the discharge of his debts. The course we would suggest, subject to the consideration and advice of the Law Officers of the Crown, would be, that the property of the deceased late Sheriff, which he had in his hands, but in the events which have happened, it will probably be considered right to apply to the Legislative Authority, to the discharge of his debts.

I am directed to add, that in looking over the list of claims, it appears to me, that the list of claims, the money levied, the negligence of the Attorneys may be seen, that the money levied, the negligence of the Attorneys may be seen, that the money levied, the negligence of the Attorneys may be seen.

I have the honor to be, &c.,  
(Signed) GEORGE COOPER TURNER,  
Civil Crown Solicitor.

The Honorable the Colonial Secretary, &c., &c., &c.

No. 10. Letter from the Colonial Secretary, to the Attorney-General and Civil Crown Solicitor.

Sydney, 20th October, 1842.

Sir,—I am directed by His Excellency the Governor, to transmit to you a copy of a letter, written by me to His Honor the Chief Justice, on the 9th July last, respecting the affairs of the late Sheriff; and a copy of the answer thereto, by the Judges, at the time of his death, together with a copy of the Report which was enclosed in the letter from the Commissioners who were appointed by the Judges to examine into the accounts of that Officer.

The sums reported by the Commissioners to have been owing by the late Sheriff, at the time of his death, to persons in the Court, amount to two thousand seven hundred and ninety-two pounds, four shillings, and seven pence; but amongst the sums so returned, the Governor finds that by far the greater part had been owing for a considerable time, and that, since the Return Day, on which the money was levied, the money ought to have been paid;—and it appears to His Excellency, that if such monies were not paid in proper time, the Attorneys have suffered only in consequence of their own negligence, in not demanding the money.

It will be a subject for the consideration and advice of the Law Officers of the Crown, how that property may be made available towards satisfying the demands against the late Sheriff, and the property of the deceased late Sheriff, which he had in his hands, but in the events which have happened, it will probably be considered right to apply to the Legislative Authority, to the discharge of his debts.

I am directed to add, that in looking over the list of claims, it appears to me, that the list of claims, the money levied, the negligence of the Attorneys may be seen, that the money levied, the negligence of the Attorneys may be seen, that the money levied, the negligence of the Attorneys may be seen.

I have the honor to be, &c.,  
(Signed) GEORGE COOPER TURNER,  
Civil Crown Solicitor.

The Honorable the Colonial Secretary, &c., &c., &c.

No. 11. Letter from the Attorney and Solicitor General to the Colonial Secretary.

Attorney General's Office, 4th November, 1842.

Sir,—We have the honor to acknowledge the receipt of your letter, of the 20th instant, transmitting copies of a correspondence between yourself and the Judges of the Supreme Court, together with a copy of the report made by the Commissioners, who are appointed by the Judges, to examine into the accounts of the late Sheriff of the Colony, Mr. Macquoid, Esquire, and to request that you will be so good as to forward a copy of the Report to the Auditor-General, and adopt such measures as he may direct, for the recovery of the money therein stated to be due, namely, nine hundred and fifty-one pounds, seven shillings, and four pence.

I have the honor to be, &c.,  
(Signed) E. DEAS THOMSON,  
His Honor the Chief Justice.

same from the Estate of the said Thomas Macquoid; and we have to add in conclusion, that from the knowledge possessed by the present Sheriff, of the state of the real and personal Estate left by the said Thomas Macquoid, we have reason to believe, that if the same be disposed of with due caution, and not hurried into the market, a large amount, if not the whole of his debts, will be paid; and we further think, that some steps might be taken which would relieve the Government from, at all events, a great part of the payments made in respect of the Estate, should any such take place.

We have the honor to be, &c.,  
(Signed) W. HUSTLER,  
W. CARTER,  
W. MACPHERSON.

Their Honors the Judges.

(The Schedule referred to in the foregoing Report shows the total amount to have been £2,792 10s. 3d.)

No. 12. is a letter from the Auditor General, showing that the amount of fees due to the Sheriff's Office was £1,372, of which £206 was from persons having no claim upon the department.

No. 13, with twelve enclosures, 14 and 15 is a correspondence between the Governor, the Judges, the Law Officers, and Mr. Sheriff Hustler, respecting the enforcement of the fees due by attorneys, some of whom are said to be insolvent, and some to have left the colony.

No. 16. Despatch from Lord Stanley, to Governor Sir George Gipps.

Downing-street, 6th June, 1842.

Sir,—I have received your letter, of the 21st of the 31st October last, announcing the melancholy intelligence of the death of Mr. Thomas Macquoid, the Sheriff of New South Wales.

It appears evident that the office requires further regulation, and I shall avail myself of the opportunity of communicating with the Judges on the subject. I have appointed Mr. Adolphus William Young to the vacant office, with the clear understanding, that he accepts the appointment subject to any modifications which may ultimately be considered necessary, and he is to be sworn in on the 1st of November next.

Mr. Young has been informed, that his salary will only commence on his entering on the duties of his office. In the present state of the office, it has not been found practicable to prepare any Warrant for Mr. Young's appointment, which must therefore be made, at least in the first instance, by the Governor.

I am not aware on what principle Sir George Murray decided that Mr. Macquoid, on his appointment, should receive no salary until the period of his arrival in the colony, but it will be necessary that you should address generally to the Rule laid down on this subject by the late Governor.

I have the honor to be, &c.,  
(Signed) STANLEY.

His Excellency Sir George Gipps, &c., &c., &c.

No. 17. Letter from the Civil Crown Solicitor to the Colonial Secretary.

Sydney, 7th February, 1843.

Sir,—I have the honor to transmit a copy of a Recognizance, forwarded to me by the Chief Clerk of the Supreme Court, entered into by the late Mr. Thomas Macquoid, Esquire, and to request your instructions whether any proceedings are to be taken against Mr. Jones, provided the Recognizance can be enforced at law.

I have the honor to be, &c.,  
(Signed) G. COOPER TURNER,  
Civil Crown Solicitor.

The Honorable the Colonial Secretary, &c., &c., &c.

[Enclosure to the foregoing Letter from Civil Crown Solicitor.]

Be it remembered, that on the twelfth day of October, in the year of Our Lord One thousand eight hundred and twenty-nine, Thomas Macquoid, Esquire, Sheriff of the Colony of New South Wales and its Dependencies, and Richard Jones, Esq., of Sydney, the said Sheriff, did solemnly swear, that he would faithfully execute his office of Sheriff of the Colony of New South Wales and its Dependencies, and annually answer to Our Sovereign Lord the King, His Heirs and successors, the sum of one thousand pounds of good and lawful money of Great Britain, to be levied on their several goods and chattels, and on the real estate, upon the condition that the said Thomas Macquoid, Esquire, shall duly and faithfully execute his office of Sheriff of the Colony of New South Wales and its Dependencies, and annually answer to Our Sovereign Lord the King, His Heirs and successors, the sum of one thousand pounds of good and lawful money of Great Britain, to be levied on their several goods and chattels, and on 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